

APR 27 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TIMOTHY B. WHITMORE,

Plaintiff - Appellant,

v.

PIERCE COUNTY DEPARTMENT OF  
COMMUNITY CORRECTIONS; et al.

Defendants - Appellees,

and

DR. HALARNAKAR; et al.,

Defendants.

No. 07-35693

D.C. No. CV-05-05265-RBL-JKA

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Western District of Washington  
Ronald B. Leighton, District Judge, Presiding

Submitted April 13, 2009<sup>\*\*</sup>

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: GRABER, GOULD, and BEA, Circuit Judges.

Timothy B. Whitmore, a former inmate in the Pierce County Jail, appeals pro se from the district court's summary judgment in favor of the Pierce County defendants in his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs and mishandling of his jail grievances. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004), and we affirm.

The district court properly granted summary judgment on the deliberate indifference claim because Whitmore failed to raise a genuine issue of material fact as to whether jail officials were deliberately indifferent to his mental health conditions. *See id.* at 1057 (explaining that prison officials must know of and disregard a substantial risk of serious harm for their conduct to constitute deliberate indifference); *see also Villegas v. Gilroy Garlic Festival Ass'n*, 541 F.3d 950, 957 (9th Cir. 2008) (en banc) ("Because there is no constitutional violation, there can be no municipal liability.").

The district court properly granted summary judgment on the claim alleging mishandling of Whitmore's grievances and "kites" (written complaints about medical care) because inmates do not have a constitutional right to specific

grievance procedures. *See Ramirez v. Galaza*, 334 F.3d 850, 860 (9th Cir. 2003).

To the extent Whitmore contends that the alleged loss of his kites supports his deliberate indifference claim, summary judgment was proper because Whitmore failed to raise a triable issue as to whether any jail official intentionally denied or delayed his access to medical care. *See Estelle v. Gamble*, 429 U.S. 97, 104-05 (1976); *Hutchinson v. United States*, 838 F.2d 390, 394 (9th Cir. 1988) (concluding that prisoner could not defeat summary judgment where there was no evidence that prison officials had denied or interfered with medical care).

We do not consider Whitmore's contention that he was denied the right to attend religious worship services because this claim was neither raised in the operative complaint nor adjudicated by the district court. *See Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1294 (9th Cir. 2001); *see also Bias v. Moynihan*, 508 F.3d 1212, 1223 (9th Cir. 2007) (declining to consider issue raised for the first time on appeal).

Whitmore's remaining contentions are unpersuasive.

All pending motions are denied.

**AFFIRMED.**